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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,326	08/23/2001	Frederick W. Ryan JR.	F-268	1636

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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,326

Applicant(s)

RYAN

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 1-39 and 44-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restrictions

Applicant's election without traverse of claims 40-43 in the reply filed on 11/7/05 is acknowledged. Claims 44-48 are withdrawn given they depend from nonelected base claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 40,43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golden et al. in view of Winn et al.

Golden et al. disclose a) collecting by a seller information regarding remote purchases made by a buyer and storing said information in a secure tax meter (10), said secure tax meter comprising:

a secure coprocessor 16 coupled to a host computer 12,

a secure tax information database (data file 23)

a secure tax database files 28A-D, and

said secure coprocessor comprising a non-volatile memory (obvious component to any processor)

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- b) operating said secure tax meter for securely calculating the correct taxing jurisdictions sales and/or use tax to be paid by said buyer for remote sales(component 400 analyzes tax information places taxes into correct jurisdiction);
- c) collecting by said seller from said buyer the correct sales and/or use tax(col. 7 lines 49,50 collection is done by electronic transfer);
- d) operating said secure tax meter for transmitting to the correct taxing jurisdiction the aggregate totals of sales and/or use tax transactions (correct totals between jurisdiction state vs. federal). However, there is no disclosure in Golden et al of said taxing jurisdiction interrogating said secure processor to ensure the integrity thereof, g) determining whether said secure processor is functioning properly, and h) shutting down said tax meter at the instruction of said taxing jurisdiction if it is determined that said secure coprocessor is not functioning properly.

However, Winn et al. discloses a POS terminal 14 which is connected to a state authority interrogating said secure processor to ensure the integrity thereof, g) determining whether said secure processor is functioning properly (See col. 8 lines 51-68). The interrogating computer while not shutting down the POS, does cause the POS to send a notification call to an appropriate authority that a problem exists. It is deemed an obvious variant of call notification of a problem to shut something off. In addition, official notice is taken of the practice of shutting a device off e.g. "out of order" if the device is malfunctioning. The motivation being a continued monitored device.

Re claim 43: the reports generated by computer 12 at the e transfer answers this claim.

Claims 41, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golden et al. in view of Winn et al. as applied above and further in view of Hurta. Golden et al. disclose the subject matter of claims 41 as set forth above. However they do not disclose an antifraud step whereby transmitting from the seller to the purchasing taxing jurisdiction a log of specific sales and use tax transactions. However, Hurta et al. do disclose an antifraud checking step whereby the paying tax customer (transponder owner) submits his transponder payment log to the authority and the authority analyses these against its receipts numbers see col. 7 lines 33-40. It would be obvious to modify the method of Golden et al to include the log check feature of Golden et al which obviously must include some given check such as the red tagged purchase by an identifiable entity the motivation being the prevention of fraud. The motivation being the checks result in increased revenue stream for the state.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Joseph A.

Fischetti at telephone number 571 272 6780.


JOSEPH A. FISCHETTI
PRIMARY EXAMINER
Joseph A. Fischetti
Primary Examiner
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